

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff(s),

No. C 05-0383 PJH

v.

ORDER

LONNIE WILLIAMS,

Defendant(s).

On April 6, 2006, the April 10, 2006 trial date was continued in view of the government's disclosure on April 5, 2006, that the weapon which defendant is accused of possessing, has been altered in appearance since the date of defendant's possession. The continuance was to afford defendant additional time for forensic evaluation and to submit any motions that might be appropriate to be heard on May 12, 2006. In order to ensure that the hearing will assist in the court's resolution of the anticipated motions, the court requests that counsel be prepared to discuss certain evidentiary considerations. First, whether the government move for admission of the altered weapon into evidence at trial, and if so, for what purpose. Second, assuming the evidence will establish that defendant denied knowledge of the obliteration of the serial number to the police shortly after his arrest and only claimed to have noticed scratches, the government will have to establish that a reasonable person would have noticed the obliteration, that defendant should have known of the obliteration, or that it is not credible that defendant was unaware of the obliteration. Thus, the appearance of the weapon at the time of defendant's possession is critical. Since the weapon no longer looks the same, the parties should be prepared to discuss whether a weapon altered in appearance or photographs or both are

admissible for this purpose. Third, if the government will seek to establish the appearance of the weapon at the time of defendant's possession by photographs, a determination must be made regarding the sufficiency of that substitute evidence. Accordingly, the government is ordered to bring to the hearing all photographs that it intends to introduce as well as the weapon in question for the court's comparison.

IT IS SO ORDERED.

Dated: April 10, 2006



PHYLLIS J. HAMILTON
United States District Judge